

Utah State Records Committee
GRAMA Appeal
Attn: Nova Dubovik
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Phone: 801-531-3834
Via E-Mail

#2017-80

REC'D AUG 28 2017

August 23, 2017

To Whom It May Concern:

The Times-Independent is appealing the denial of a request for records. On July 3 [Att. A], and in a subsequent appeal July 20 [Att. B], *The Times-Independent* requested any/all formal complaints filed with the Moab City Police Department or Moab City regarding former police officer [redacted] during his tenure with the department. This request was denied by Moab City on July 17 [Att. C] and their Chief Administrative Officer on July 25 [Att. D].

Our requests were denied pursuant to UC 63G-2-302(2)(a). In their denial, Moab City cited a provision in state code which deems records concerning a current or former employee — including performance evaluations and personal status information — as private.

However, *The Times-Independent* requested complaints made against Officer [redacted] not performance evaluations or personal status information. Formal complaints are often made by the public against public officials, and as such should be public documents.

Moab City also stated that our request was inapplicable under Subsection 63G-2-301(3)(o), which designates records of a past or present governmental employee as public if the disciplinary action has been completed, all time periods for administrative appeal have expired, and the charges on which the disciplinary action was based were sustained.

Hansen resigned in April 2017, closing a Moab City-led investigation into allegations of his potential misconduct. No known disciplinary action was taken by Moab City since resignation effectively ended said investigation.

Nonetheless, we are not requesting the disciplinary actions taken against Officer [redacted] but rather any complaints filed during his tenure at the department. We have reason to believe that Officer [redacted] engaged in an ongoing pattern of misconduct and that members of the public repeatedly complained about his behavior. Should this prove to be true, we feel the public has a right to know the nature of those complaints and when they were made. If these records continue to remain protected, the facts and truth regarding those complaints will never be known.

Law enforcement officers take an oath to work within the law, perform all duties impartially, and use integrity beyond reproach. If complaints are lodged against individual officers, the public trusts that government leaders will adhere to due process. The transparency of the Moab City Police Department - as well as its officers' adherence to policy and procedures - has been called into question by other government officials and citizens in recent months. As a police officer sworn to uphold the law, Officer [redacted] right to privacy is clearly outweighed by the Moab community's right to know about repeated complaints of his misconduct.

Background:

The Times-Independent has investigated several allegations of police officer misconduct since alerted confidentially to the potential issues in September 2016. Through the course of our investigation, *The Times-Independent* found several public safety agencies also scrutinizing the department and individual officers. Those agencies include the Federal Bureau of Investigation, the State Bureau of Investigation (SBI), the Utah County Sheriff's Department, the Vernal City Police Department, as well as Peace Officers Standards and Training (POST). From December 2016 to the present, we have published many articles regarding the nature of these investigations.

Through this process, we have heard citizens, public officials, and others intimately familiar with our local judicial system raise concerns about individual officers as well as policy and procedure violations at the Moab City Police Department. After coming under scrutiny by the Grand County Attorney and others, four officers have resigned, including Officer

Several allegations related to Officer are already part of the public record. In September 2016, Grand County Attorney Andrew Fitzgerald alleged that the Moab Area Narcotics Enforcement Team dissolved in part due to "trust issues" surrounding Officer [Att. E]. Fitzgerald also said his office has tracked irregularities in Officer alleging that his ability to testify in court cases may be compromised.

In the same letter, Fitzgerald mentions complaints against Officer stating that "although it is common to hear complaints about police officers, it seems that the amount of complaints regarding Officer rise above the norm."

In addition, *The Times-Independent* has determined that Officer has been subject to a Moab City investigation into his alleged misconduct. But because Officer resigned during this investigation, City Manager David Everitt said there were no formal findings and the investigation was concluded [Att. F]. As such, we do not know the nature of this investigation or which policy violations were being investigated.

In February 2017, POST investigated issues related to Officer. Although *The Times-Independent* was not provided a copy of the investigation documents, POST did provide us a summary of their findings [Att. G]. POST determined that there is evidence to show engaged in unlawful behavior as a sworn officer working for the Grantsville Police Department in 1994 or 1995. Criminal charges were not filed because the statute of limitations on the matter had expired. POST decided to take no action on peace officer certification and he retains his ability to find employment in law enforcement.

Conclusion:

Before joining the Moab City Police Department in 1996, had a history of unlawful behavior. The POST investigation, the formal allegations lobbied by the county attorney, and anecdotal evidence suggests there may be serious issues surrounding Officer tenure at the Moab City Police Department.

We are requesting complaints - whether complaints made by the public, complaints lobbied by Moab City staff or complaints made by other public officials - against the former officer. This issue is pressing - still retains his peace officer certification and may continue to work in law enforcement.

In the interest of transparency and good government, we believe the Moab community is entitled to know the nature of the complaints filed against former Officer [redacted] during his tenure at the Moab City Police Department. In this case as in any other, the public has a right to know about complaints involving law enforcement officers and how those complaints are examined by government leaders.

Thank you for considering this request.

Best,

A handwritten signature in cursive script, appearing to read "Molly Marcello", followed by a horizontal line.

Molly Marcello
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